

**EXHIBIT 4**  
**to Declaration of Jennifer Rae Lovko**



Rae Lovko <rlovko@greenfirelaw.com>

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## Rethink35 et al. v. Texas Dep't of Transp., No. 1:24-CV-00092

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**Lisa Mitchell** <Lisa.Mitchell@oag.texas.gov>

Fri, Jul 12, 2024 at 7:44 AM

To: Rae Lovko <rlovko@greenfirelaw.com>

Cc: Rachel Doughty <rdoughty@greenfirelaw.com>, Ryan Bates <rbates@batespllc.com>, Matt Gamboa-Lutz <Matt.Gamboa-Lutz@oag.texas.gov>, Aidan Read <Aidan.Read@oag.texas.gov>, Catherine Fuller <Catherine.Fuller@oag.texas.gov>

Hello,

Our client has reviewed your email and the attachment and offers the following responses.

"As regards the administrative record, there are a number of documents missing before it should be considered complete. Attached is a list of documents that are identified in either the DEIS or FEIS but which are not part of the record. Can you please supplement the administrative record to include these?"

- DEIS pages 467-70 and 472-77: TxDOT will not be supplementing the administrative record with these documents as those documents are not decisional, are available from third parties, and their inclusion would create an unnecessarily voluminous administrative record.
- FEIS Appendix T: TxDOT will not be supplementing the administrative record with the materials included in Appendix T, as they are not decisional, they are attachments to a document prepared by the Texas Transportation Institute, the materials are available either online or from third parties, and their inclusion would create an unnecessarily voluminous administrative record.
- FEIS Appendix P: TxDOT will supplement the administrative record with its March 2023 Environmental Guide: Volume 2 Activity Instructions.

"In addition, the administrative record contains comment letters and emails but does not contain attachments that accompanied these comments. For example, Rethink Austin attached a significant number of documents pertaining to air pollution, health hazards, and more. All attachments should be included in the administrative record."

- TxDOT will add these documents. TxDOT anticipates it will take approximately one month to gather these documents and prepare a supplement to be filed with the court.

Lisa

**Lisa McClain Mitchell**

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